

JAMES M. CHUDNOW

IBLA 84-331

Decided July 19, 1984

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's oil and gas lease offer NM-A 56478.

Affirmed.

1. Oil and Gas Leases: Applications: Description -- Oil and Gas Leases: Description of Land

A noncompetitive acquired lands oil and gas lease offer for lands not surveyed under the rectangular system for public land surveys is properly rejected where the offeror fails to include a map, where land is included in the description which is not owned by the United States, or where the land description is inadequate.

APPEARANCES: James M. Chudnow, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

James M. Chudnow has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated January 13, 1984, rejecting noncompetitive acquired lands oil and gas lease offer NM-A 56478 in T. 22 N., R. 4 E., New Mexico principal meridian, New Mexico, in its entirety.

In rejecting appellant's oil and gas lease offer, BLM set forth three bases for its decision: (1) The metes and bounds description submitted with the offer is not adequate; (2) appellant included land in the description which is not owned by the Government; and (3) the lease offer was not accompanied by a map. BLM cited 43 CFR 3101.2-3(b)(1) and (2) (1982), and Chevron U.S.A., Inc., 67 IBLA 266 (1982), in support of its decision. 43 CFR 3101.2-3(b)(2) (1982) 1/ provides that a map must accompany an oil and gas lease offer where the acquired lands described have not been surveyed under the rectangular system of public land surveys.

[1] The furnished metes and bounds description for appellant's oil and gas lease offer is not adequate. The purpose of the regulations specifying

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1/ The current regulation, 43 CFR 3111.2-2(d), provides that five copies of the map must be submitted with the offer.

the kinds of descriptions to be used in oil and gas lease offers is to require the offeror to provide a description which is at least sufficient on its face to delimit the lands applied for. E.g., James M. Chudnow, 70 IBLA 71, 73 (1983); Milan S. Papulak, 63 IBLA 16, 17 (1982).

Failure to provide the required maps is a basis for rejecting an oil and gas lease offer for lands not surveyed under the rectangular system for public land surveys. E.g., Ron W. Howard, 75 IBLA 133, 134 (1983); James M. Chudnow, supra at 73; Vester Songer, 69 IBLA 177, 178 (1982).

Appellant argues (1) that the BLM plats do not indicate that the area is unsurveyed or partially surveyed; (2) all of the land outside that area ("the Polvadera Grant") is surveyed; (3) "there must be some such survey of the 'Polvadera' area so the Government would know what is not in the Grant," and; (4) if he described land which is not available, BLM should simply have excluded that land and issued him a lease for the balance, as BLM does as "standard Government practice."

The fact that appellant was not informed by the BLM records he referred to that the land was unsurveyed cannot constitute a waiver of the map requirement. Moreover, where a metes and bounds description encompasses private land which is also unsurveyed, that land could only be excluded from the lease by a metes and bounds description of the boundaries of the parcel to be excluded. This was not provided by appellant. The "standard practice" to which appellant alludes is applicable only to unavailable surveyed lands, which can conveniently be identified and described, and excluded from the lease.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing  
Administrative Judge

We concur:

Gail M. Frazier  
Administrative Judge

Will A. Irwin  
Administrative Judge.

